

Message Text

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11

ACTION AF-06

INFO OCT-01 EUR-12 IO-10 ISO-00 AID-05 CIAE-00 COME-00

EB-07 FRB-03 INR-07 NSAE-00 TRSE-00 XMB-02 OPIC-03

SP-02 CIEP-01 LAB-04 SIL-01 OMB-01 AGR-05 INT-05

FEAE-00 DODE-00 PM-03 H-02 L-02 NSC-05 PA-01 PRS-01

SS-15 USIA-06 /110 W

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P R 021000Z MAY 75

FM AMEMBASSY ACCRA

TO SECSTATE WASHDC PRIORITY 7372

INFO USDOC WASHDC PRIORITY

AMEMBASSY ABIDJAN

AMEMBASSY ADDIS ABABA

AMEMBASSY COTONOU

AMEMBASSY FREETOWN

AMEMBASSY KINSHASA

AMEMBASSY LAGOS

AMEMBASSY LOME

AMEMBASSY LONDON

AMEMBASSY MONROVIA

AMEMBASSY NAIROBI

AMEMBASSY OUGADOUGOU

AMEMBASSY PARIS

USDEL MTN GENEVA

C O N F I D E N T I A L SECTION 1 OF 2 ACCRA 2782

DEPT ALSO FOR OPIC: LAGOS ALSO FOR AGATT, LONDON FOR HAVERKAMP:
PARIS FOR MELONE, GENEVA FOR MTN

EO 11652 GDS

TAGS: EALR EINV GH

SUB: NEW GHANAIAIN INVESTMENT POLICY DECREE

REF: (A) ACCRA 0221, 1/12/73

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(B) ACCRA 0226 1/12/73

(C) ACCRA 0277, 1/17/73

(D) ACCRA A-10, 1/20/73 (ALL NOTAL)

1. SUMMARY: NEW DECREE CALLS FOR VARYING LEVELS OF GHANAIAN OWNERSHIP IN LONG LIST OF INDUSTRIES BY 12/31/75,

IMPLEMENTING EARLIER WHITE PAPER. PRIMARY TARGET PROBABLY LEBANESE, BUT U.S. FIRMS WILL BE AFFECTED. HOWEVER, LARGEST U.S. INVESTMENTS MAY BE BENEFICIARIES OF FULL OR PARTIAL EXCEPTIONS TO DECREE. WE BELIEVE GOG WILL NOT RPT NOT RUSH HEADLONG INTO NATIONALIZATION BUT WILL PROCEED PRAGMATICALLY. END SUMMARY. END CLASSIFIED.

BEGIN UNCLASSIFIED:

2. INVESTMENT POLICY DECREE, 1975 (N.R.C.D. 329) DATED 4/24/75 HAS JUST BEEN ISSUED, WITH EFFECTIVE DATE FOR GHANAIAN MINIMUM PARTICIPATION 12/31/75. IN GENERAL IT FOLLOWS "OUTLINE OF GHANA'S INVESTMENT POLICY" (WHITE PAPER) (REFTELS) REGARDING SECTORS OF ECONOMY RESERVED FOR GHANAIS AND SECTORS IN WHICH MIXED GHANAIAN/FOREIGN OWNERSHIP PERMITTED, AND PERCENTAGES. LIGHTERAGE, TIRE RETREADING, BOOK PRINTING AND PUBLISHING, AND LUGGAGE AND RELATED MANUFACTURING MOVED TO GHANAIS-ONLY LIST. POULTRY FARMING, LAUNDRY/DRY CLEANING, CHARCOAL MANUFACTURE MOVED TO MIXED GHANAIAN/FOREIGN OWNERSHIP LIST. FOLLOWING NOT LISTED WHITE PAPER ADDED IN DECREE TO MIXED LIST: MOTOR VEHICLE ASSEMBLY, TERRAZO WORK, SAWMILLING, ASSEMBLY OF HOUSEHOLD ELECTRICAL EQUIPMENT AND APPLIANCES, AND MANUFACTURE OF FOLLOWING: CONFECTIONERY, MACHETES (LONG KNIVES), PLASTIC AND PAPER CONTAINERS (METAL CONTAINERS ALREADY ON LIST), PACKAGING MATERIALS, PLASTIC PRODUCTS, BALL POINT PENS, PENCILS, MOSQUITO COILS, PHONOGRAPH RECORDS, CHALK, INK, RUBBER PRODUCTS, TOBACCO, BISCUITS (COOKIES).

3. DISTINCTION IN MANY CASES IS MADE BETWEEN FIRMS BELOW CEDIS 500,000 EMPLOYED CAPITAL OR BELOW CEDIS ONE MILLION ANNUAL TURNOVER AND THOSE AT OR ABOVE THESE LEVELS.

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4. RETAIL AND WHOLESALE TRADE GENERALLY RESERVED TO WHOLLY-GHANAIAN-OWNED COMPANIES, EXCEPT DEPARTMENT STORES ABOVE LEVELS CITED PARA 3, WHICH MUST BE AT LEAST 50 PERCENT GHANAIAN. COMMERCIAL OR INDUSTRIAL ENTERPRISES SHOWN IN MIXED OWNERSHIP LIST MUST BE AT LEAST 50 PERCENT GHANAIAN BELOW PARA 3 LEVELS AND AT LEAST 40 PERCENT GHANAIAN ABOVE THOSE LEVELS. BANKING AT LEAST 40 PERCENT

GHANIAN.

5. FOLLOWING MUST BE AT LEAST 40 PERCENT GHANAIAIAN IF BELOW PARA 3 LEVELS AND AT LEAST 55 GHANAIAIAN STATE RPT STATE IF ABOVE THOSE LEVELS (WITH CERTAIN EXCEPTIONS IF ALREADY 55 PERCENT GHANAIAIAN OWNERSHIP): TIMBER, MINERAL EXTRACTION AND PROCESSING (EXCEPT OIL, BAUXITE, AND ALUMINA), AND LONG LIST OF BASIC NECESSITIES SUCH AS SUGAR, SALT, SOAP, FERTILIZERS, TEXTILES.

6. FIRMS EXTRACTING OR PROCESSING BAUXITE AND PROCESSING ALUMINA MUST HAVE SHARE BY GHANAIAIAN STATE NOT EXCEEDING RPT NOT EXCEEDING 30 PERCENT. FIRMS IN MINERAL OIL PRODUCTION MUS HAVE SHARE BY GHANAIAIAN STATE NOT EXCEDDING RPT NOT EXCEEDING 20 PERCENT. SHARE IN EACH CASE TO BE DETERMINED BY NATIONAL REDEMPTION COUNCIL (NRC).

7. AN INVESTMENT POLICY IMPLEMENTATTION COMMITTEE (IPIC) TO BE APPOINTED BY NRC IS TO IMPLEMENT DECREE. RESPON-SIBILITY WITH COMMISSIONER FOR FINANCE. WHERE DECREE REQUIRES SALE OF PART OR FULL OWNERSHIP TO GHANAIAIANS THAT PART OF CAPITAL SHALL BE VESTED IN IPIC, WHICH SHALL DETERMINE MAXIMUM PRICE AND ACT AS INTERMEDIARY.

8. CONCURRENTLY, ALL ALIEN ENTERPRISES ARE EXPECTED TO SET UP TRAINING SCHEME TO ALLOW GHANAIAIAN EMPLOYEES TO TAKE OVER FROM EXPATRIATES.

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INFO OCT-01 EUR-12 IO-10 ISO-00 AID-05 CIAE-00 COME-00

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SP-02 CIEP-01 LAB-04 SIL-01 OMB-01 AGR-05 INT-05

FEAE-00 DODE-00 PM-03 H-02 L-02 NSC-05 PA-01 PRS-01

SS-15 USIA-06 /110 W

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P R 021000Z MAY 75
FM AMEMBASSY ACCRA
TO SECSTATE WASHDC PRIORITY 7373
INFO USDOC WASHDC PRIORITY
AMEMBASSY ABIDJAN
AMEMBASSY ADDIS ABABA
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9. EXEMPTION IN WHOLE OR IN PART FORM DECREE PERMITTED
WHEN AUTHORIZED BY NRC. WHILE THIS AUTHORITY UNLIMITED,
IT "MAY IN PARTICULAR BE GRANTED" FOR CITIZEN OF OAU
MEMBER COUNTRY ON BASIS OF RECIPROCITY

10. PARALLEL GHANAIAI ENTERPRISE DEVELOPMENT DECREE,
1975 (N.R.C.D 330), SAME DATE, ESTABLISHES GHANAIAI
ENTERPRISES DEVELOPMENT COMMISSION (GEDC) TO "ENSURE
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ASSUMPTION OF CONTROL OF ECONOMY BY GHANAINS WITHIN
SHORTEST POSSIBLE TIME, " TO IMPLEMENT THAT PORTION OF
NRCD 329 WHICH CALLS FOR TOTAL GHANAIAI OWNERSHIP, AND
"TO CREATE AND EFFECTIVE INSTITUTION PROVIDING TECHNICAL
AND FINANCIAL ASSISTANCE AS WELL AS GENERAL ADVISORY
SERVICE TO GHANAIAI BUSINESSMEN". RESPONSIBILITY WITH
COMMISSIONER FOR ECONOMIC PLANNING. GEDC TO DETERMINE
FOR ENTERPRISES RESERVED FOR TOTAL OR PARTIAL GHANAIAI
OWNERSHIP (I.E., UNDER NRCD 329) WHAT PERCENTAGE OF
CAPITAL MUST BE HELD BY GHANAIAI WORKERS IN THAT ENTERPRISE,
WHICH MAY DIFFER FOR DIFFERENT CLASSES OF ENTERPRISES.
GEDC IS SUCCESSOR TO OFFICE OF BUSINESS PROMOTION.

1. POUCHING COPIES NRCD 329 AND 330 TO STATE (AF/W)
AND USDOC (BIC/OIM). RECOMMEND USDOC EXAMINE CAREFULLY
PRIOR TO PUBLICATION OF NEW OBR, "MARKETING IN GHANA"
(ACCRA A-21 AND ACCRA 2626). END UNCLASSIFIED.

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12. DECREES WERE NOT RPT NOT EXPECTED AT THIS TIME. IN VIEW CURRENT SEVERE CONSTRAINTS IT APPARENT THAT LITTLE OR NO FOREIGN EXCHANGE AVAILABLE TO PURCHASE SHARES IN EXPATRIATE BUSINESSES. SINCE GOG BOTH PUBLICLY AND PRIVATELY STILL ENCOURAGING FOREIGN INVESTMENT IN GHANA WITHIN SPECIFIED PARAMETERS, TIMING OF DECREE SEEMS STRANGE. INCREDIBLY, A SOURCE WITH GOOD ACCESS STATES GOG ACTUALLY BELIEVES DECREE WILL ENCOURAGE FOREIGN INVESTMENT BY REMOVING DOUBTS ABOUT INTENTIONS. DECREE WILL, OF COURSE, HAVE IMMEDIATE OPPOSITE EFFECT.

13. APPARENTLY PRIMARY TARGET OF DECREE IS LEBANESE FIRMS, WHICH DO NOT DOMINATE BUT NEVERTHELESS ARE IMPORTANT FACTOR IN RETAIL, SMALL WHOLESALE, AND LIGHT MANUFACTURING SECTORS.

14. U.S. FIRMS MOST LIKELY TO BE AFFECTED ARE PETROLEUM MARKETING COMPANIES (MOBIL AND TEXACO). WHICH HAVE 100 PERCENT FOREIGN OWNERSHIP: UCAR PLASTICS (GHANA) LTD., WHICH 100 PERCENT OWNED BY UNION CARBIDE GHANA LTD., AND IN TURN IS ONLY 1/3 GHANAIAN (BATTERY
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MANUFACTURE NOT MENTIONED IN DECREE, AND THEREFORE PRESUMED TO BE PERMITTED REMAIN AT PRESENT OWNERSHIP SPLIT); JOHNSON'S WAX, LTD., AND STAR-KIST INTERNATIONAL S.A.

15. VALCO (90 PERCENT KAISER, 10 PERCENT REYNOLDS) RESUMABLY IS IN SPECIAL POSITION. IT HAS MASTER AGREEMENT WITH GOG VALID UNTIL 1997 WITH UNILATERAL 20 YEAR RENEWAL OPTION PERMITTING 100 PERCENT FOREIGN OWNERSHIP, IS OF SUCH MAGNITUDE THAT GHANAIAN CAPITAL VERY UNLIKELY BE AVAILABLE, AND UNDER DECREE IS AN AREA WHICH SPECIFIES MAXIMUM RATHER THAN MINIMUM LEVEL GHANAIAN INVESTMENT (NOT EXCEEDING 30 PERCENT). A WELL-PLACED SOURCE CONFIRMS VALCO WILL BE EXEMPTED UNTIL MASTER AGREEMENT EXPIRES. OIL PROSPECTING FIRMS (AMOCO, PHILLIPS) IN SIMILAR SITUATION. FIRESTONE GHANA LTD. IS ALREADY 40 PERCENT GHANAIAN.

16. THERE ARE CONFLICTING INDICATIONS OF GOG INTENTION FROM PAST PERFORMANCE. WHITE PAPER CALLED FOR NEGOTIATIONS ON GHANAIAN EQUITY TO COMMENCE WITHIN THREE MONTHS (APRIL 1973) AND TO BE COMPLETED WITHIN YEAR THEREAFTER, BUT HAS NEVER BEEN IMPLEMENTED. ON OTHER HAND, WHEN THREE SPECIFIED TIMBER COMPANIES REQUIRED TO BECOME 55 PERCENT GHANAIAN STATE-OWNED UNDER TERMS OF TIMBER OPERATIONS (GOVERNMENT PARTICIPATION) DECREE, 1972 (N.R.C.D. 139), PAYMENT WAS TO BE ONLY AT BOOK VALUE, OVER NOT LESS THAN FIVE YEARS, WITH MAXIMUM INTEREST RATE 2.5 PERCENT.

17. WHILE GHANAIS HAVE AS GOAL "CAPTURING COMMANDING HEIGHTS OF ECONOMY" THEY ARE NOT IDEOLOGUES AND WILL PROBABLY APPROACH GHANAIANIZATION- A TERM THEY ARE NOT YET USING-PRAGMATICALLY. THERE IS ENOUGH ROOM FOR EXCEPTIONS IN THE DECREE FOR U.S. INVESTORS TO KEEP FROM DESPAIRING. WE CAN ANTICIPATE DELAYS IN CARRYING OUT DECREE BEYOND THE SPECIFIED END CY 75 DATE. WE AND UNDOUBTEDLY MANY OTHERS WILL BE USING APPROPRIATE OCCASIONS TO POINT OUT TO OFFICIALS THAT BARRING CLEAR INDICATIONS ANY FORCED TAKEOVER BY GHANAIS WILL BE FAIRLY AND PROMPTLY COMPENSATED ANY HOPE OF FURTHER FOREIGN INVESTMENT IN GHANA HAS BEEN DASHED.

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18. PORTION OF DECREE CALLING FOR PROGRESSIVE TAKEOVER OF JOBS BY GHANAIAN EMPLOYEES FROM EXPATRIATES PARALLELS CONTINUING GOG EFFORT. RECENTLY, GOG HAS BEEN REDUCING QUOTAS FOR EXPATRIATE EMPLOYEES BY FOREIGN FIRMS.
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